

Calendar No. 109

105TH CONGRESS
1ST Session

S. 39

A BILL

To amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

JULY 14, 1997

Reported with an amendment in the nature of a substitute

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IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. STEVENS (for himself, Mr. BREAUX, Mr. THURMOND, and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JULY 14, 1997

Reported by Mr. MCCAIN, with an amendment in the nature of a substitute

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; REFERENCES.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “International Dolphin Conservation Program Act”.

4 (b) **REFERENCES TO MARINE MAMMAL PROTECTION**
5 **ACT.**—Except as otherwise expressly provided, whenever
6 in this Act an amendment or repeal is expressed in terms
7 of an amendment to, or repeal of, a section or other provi-
8 sion, the reference shall be considered to be made to a
9 section or other provision of the Marine Mammal Protec-
10 tion Act of 1972 (16 U.S.C. 1361 et seq.).

11 **SEC. 2. PURPOSE AND FINDINGS.**

12 (a) **PURPOSES.**—The purposes of this Act are—

13 (1) to give effect to the Declaration of Panama,
14 signed October 4, 1995, by the Governments of
15 Belize, Colombia, Costa Rica, Ecuador, France,
16 Honduras, Mexico, Panama, Spain, the United
17 States of America, Vanuatu, and Venezuela, includ-
18 ing the establishment of the International Dolphin
19 Conservation Program, relating to the protection of
20 dolphins and other species, and the conservation and
21 management of tuna in the eastern tropical Pacific
22 Ocean;

23 (2) to recognize that nations fishing for tuna in
24 the eastern tropical Pacific Ocean have achieved sig-
25 nificant reductions in dolphin mortality associated
26 with that fishery; and

1 ~~(3) to eliminate the ban on imports of tuna~~
2 ~~from those nations that are in compliance with the~~
3 ~~International Dolphin Conservation Program.~~

4 ~~(b) FINDINGS.—The Congress finds that—~~

5 ~~(1) the nations that fish for tuna in the eastern~~
6 ~~tropical Pacific Ocean have achieved significant re-~~
7 ~~ductions in dolphin mortality associated with the~~
8 ~~purse seine fishery from hundreds of thousands an-~~
9 ~~nually to fewer than 5,000 annually;~~

10 ~~(2) the provisions of the Marine Mammal Pro-~~
11 ~~tection Act of 1972 that impose a ban on imports~~
12 ~~from nations that fish for tuna in the eastern tropi-~~
13 ~~cal Pacific Ocean have served as an incentive to re-~~
14 ~~duce dolphin mortalities;~~

15 ~~(3) tuna canners and processors of the United~~
16 ~~States have led the canning and processing industry~~
17 ~~in promoting a dolphin-safe tuna market; and~~

18 ~~(4) 12 signatory nations to the Declaration of~~
19 ~~Panama, including the United States, agreed under~~
20 ~~that Declaration to require that the total annual dol-~~
21 ~~phin mortality in the purse seine fishery for yellow-~~
22 ~~fin tuna in the eastern tropical Pacific Ocean not ex-~~
23 ~~ceed 5,000 animals, with a commitment and objec-~~
24 ~~tive to progressively reduce dolphin mortality to a~~

1 level approaching zero through the setting of annual
 2 limits with the goal of eliminating dolphin mortality.

3 **SEC. 3. DEFINITIONS.**

4 Section 3 (16 U.S.C. 1362) is amended by adding
 5 at the end the following new paragraphs:

6 “(28) The term ‘International Dolphin Con-
 7 servation Program’ means the international program
 8 established by the agreement signed in LaJolla,
 9 California, in June, 1992, as formalized, modified,
 10 and enhanced in accordance with the Declaration of
 11 Panama, that requires—

12 “(A) that the total annual dolphin mortal-
 13 ity in the purse seine fishery for yellow fin tuna
 14 in the eastern tropical Pacific Ocean shall not
 15 exceed 5,000 animals with a commitment and
 16 objective to progressively reduce dolphin mortal-
 17 ity to a level approaching zero through the set-
 18 ting of annual limits;

19 “(B) the establishment of a per stock per
 20 year dolphin mortality limit at a level between
 21 0.2 percent and 0.1 percent of the minimum
 22 population estimate to be in effect through cal-
 23 endar year 2000;

24 “(C) the establishment of a per stock per
 25 year dolphin mortality limit at a level less than

or equal to 0.1 percent of the minimum population estimate beginning with the calendar year 2001;

“(D) that if a dolphin mortality limit is exceeded under—

“(i) subparagraph (A), all sets on dolphins shall cease for the applicable fishing year; and

“(ii) subparagraph (B) or (C), all sets on the stocks covered under subparagraph (B) or (C) and any mixed schools that contain any of those stocks shall cease for the applicable fishing year;

“(E) a scientific review and assessment to be conducted in calendar year 1998 to—

“(i) assess progress in meeting the objectives set for calendar year 2000 under subparagraph (B); and

“(ii) as appropriate, consider recommendations for meeting these objectives;

“(F) a scientific review and assessment to be conducted in calendar year 2000—

“(i) to review the stocks covered under subparagraph (C); and

1 “(ii) as appropriate to consider rec-
 2 ommendations to further the objectives set
 3 under that subparagraph;

4 “(G) the establishment of a per vessel
 5 maximum annual dolphin mortality limit con-
 6 sistent with the established per-year mortality
 7 limits, as determined under subparagraphs (A)
 8 through (C); and

9 “(H) the provision of a system of incen-
 10 tives to vessel captains to continue to reduce
 11 dolphin mortality, with the goal of eliminating
 12 dolphin mortality.

13 “(29) The term ‘Declaration of Panama’ means
 14 the declaration signed in Panama City, Republic of
 15 Panama, on October 4, 1995.”

16 **SEC. 4. AMENDMENTS TO TITLE I.**

17 (a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is
 18 amended—

19 (1) by inserting after the first sentence “Such
 20 authorizations may be granted under title III with
 21 respect to purse seine fishing for yellowfin tuna in
 22 the eastern tropical Pacific Ocean, subject to regula-
 23 tions prescribed under that title by the Secretary
 24 without regard to section 103” before the period;
 25 and

1 (2) by striking the semicolon in the second sen-
2 tence and all that follows through “practicable”.

3 (b) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is
4 amended—

5 (1) by striking subparagraph (B) and inserting
6 the following:

7 “(B) in the case of yellowfin tuna har-
8 vested with purse seine nets in the eastern trop-
9 ical Pacific Ocean, and products therefrom, to
10 be exported to the United States, shall require
11 that the government of the exporting nation
12 provide documentary evidence that—

13 “(i)(I) the tuna or products therefrom
14 were not banned from importation under
15 this paragraph before the effective date of
16 the International Dolphin Conservation
17 Program Act; or

18 “(II) the tuna or products therefrom
19 were harvested after the effective date of
20 the International Dolphin Conservation
21 Program Act by vessels of a nation which
22 participates in the International Dolphin
23 Conservation Program, and such harvest-
24 ing nation is either a member of the Inter-
25 American Tropical Tuna Commission or

1 has initiated (and within 6 months there-
2 after completed) all steps required of appli-
3 cant nations, in accordance with article V,
4 paragraph 3 of the Convention establishing
5 the Inter-American Tropical Tuna Com-
6 mission, to become a member of that orga-
7 nization;

8 “(ii) such nation is meeting the obli-
9 gations of the International Dolphin Con-
10 servation Program and the obligations of
11 membership in the Inter-American Tropi-
12 cal Tuna Commission, including all finan-
13 cial obligations; and

14 “(iii) the total dolphin mortality lim-
15 its, and per stock per year dolphin mortal-
16 ity limits permitted for that nation’s ves-
17 sels under the International Dolphin Con-
18 servation Program do not exceed those lev-
19 els determined for 1996, or in any year
20 thereafter, consistent with a commitment
21 and objective to progressively reduce dol-
22 phin mortality to a level approaching zero
23 through the setting of annual limits and
24 the goal of eliminating dolphin mortality;

1 and requirements of the International Dol-
 2 phin Conservation Program; and”

3 ~~(2)~~ by redesignating subparagraphs ~~(C)~~, ~~(D)~~,
 4 and ~~(E)~~ as subparagraphs ~~(D)~~, ~~(E)~~, and ~~(F)~~, respec-
 5 tively;

6 ~~(3)~~ by inserting after subparagraph ~~(B)~~ the fol-
 7 lowing:

8 “~~(C)~~ the Secretary shall not accept such
 9 documentary evidence if—

10 “(i) the government of the harvesting
 11 nation does not provide directly or author-
 12 ize the Inter-American Tropical Tuna
 13 Commission to release complete and accu-
 14 rate information to the Secretary in a
 15 timely manner to allow determination of
 16 compliance with the International Dolphin
 17 Conservation Program; or

18 “(ii) the government of the harvesting
 19 nation does not provide directly or author-
 20 ize the Inter-American Tropical Tuna
 21 Commission to release complete and accu-
 22 rate information to the Secretary in a
 23 timely manner for the purposes of tracking
 24 and verifying compliance with the mini-
 25 mum requirements established by the Sec-

retary in regulations promulgated under
 subsection (f) of the Dolphin Protection
 Consumer Information Act (16 U.S.C.
 1385(f)); or

“(iii) after taking into consideration
 this information, findings of the Inter-
 American Tropical Tuna Commission, and
 any other relevant information, including
 information that a nation is consistently
 failing to take enforcement actions on vio-
 lations which diminish the effectiveness of
 the International Dolphin Conservation
 Program, the Secretary, in consultation
 with the Secretary of State, finds that the
 harvesting nation is not in compliance with
 the International Dolphin Conservation
 Program.”; and

(4) by striking “subparagraph (E)” in the mat-
 ter after subparagraph (F), as redesignated by para-
 graph (2) of this subsection, and inserting “subpara-
 graph (F)”.

(c) Section 101 (16 U.S.C. 1371) is amended by add-
 ing at the end the following new subsection:

“(d) ACT NOT TO APPLY TO INCIDENTAL TAKINGS
 BY UNITED STATES CITIZENS EMPLOYED ON FOREIGN

1 VESSELS OUTSIDE THE UNITED STATES EEZ.—The pro-
 2 visions of this Act shall not apply to a citizen of the United
 3 States who incidentally takes any marine mammal during
 4 fishing operations outside the United States exclusive eco-
 5 nomic zone (as defined in section 3 of the Magnuson-Ste-
 6 vens Fishery Conservation and Management Act (16
 7 U.S.C. 1802) when employed on a foreign fishing vessel
 8 of a harvesting nation which is in compliance with the
 9 International Dolphin Conservation Program.”.

10 (d) Section 104(h) (16 U.S.C. 1374(h)) is amended
 11 to read as follows:

12 “(h) GENERAL PERMITS.—

13 “(1) Consistent with the regulations prescribed
 14 pursuant to section 103 of this title and to the re-
 15 quirements of section 101 of this title, the Secretary
 16 may issue an annual permit to a United States
 17 purse seine fishing vessel for the taking of such ma-
 18 rine mammals, and shall issue regulations to cover
 19 the use of any such annual permits.

20 “(2) Such annual permits for the incidental
 21 taking of marine mammals in the course of commer-
 22 cial purse seine fishing for yellowfin tuna in the
 23 eastern tropical Pacific Ocean shall be governed by
 24 section 304 of this Act, subject to the regulations is-
 25 sued pursuant to section 302 of this Act.”.

1 (e) Section 108(a)(2) (16 U.S.C. 1378(a)(2)) is
2 amended—

3 (1) by striking “and” at the end of subpara-
4 graph (A);

5 (2) by inserting after subparagraph (B) the fol-
6 lowing:

7 “(C) negotiations to revise the Convention
8 for the Establishment of an Inter-American
9 Tropical Tuna Commission (1 U.S.T. 230;
10 TIAS 2044) which will incorporate—

11 “(i) the conservation and management
12 provisions agreed to by the nations which
13 have signed the Declaration of Panama
14 and in the Straddling Fish Stocks and
15 Highly Migratory Fish Stocks Agreement,
16 as opened for signature on December 4,
17 1995; and

18 “(ii) a revised schedule of annual con-
19 tributions to the expenses of the Inter-
20 American Tropical Tuna Commission that
21 is equitable to participating nations; and

22 “(D) discussions with those countries par-
23 ticipating, or likely to participate, in the Inter-
24 national Dolphin Conservation Program, for the
25 purpose of identifying sources of funds needed

1 for research and other measures promoting ef-
 2 fective protection of dolphins, other marine spe-
 3 cies, and the marine ecosystem;”.

4 (f) Section 110(a) (16 U.S.C. 1380(a)) is amended—
 5 (1) by striking “(1)” in paragraph (1); and
 6 (2) by striking paragraph (2).

7 (g) Subsection (d)(1) of the Dolphin Protection
 8 Consumer Information Act (16 U.S.C. 1385(d)(1)) is
 9 amended to read as follows:

10 “(1) It is a violation of section 5 of the Federal
 11 Trade Commission Act for any producer, importer,
 12 exporter, distributor, or seller of any tuna product
 13 that is exported from or offered for sale in the Unit-
 14 ed States to include on the label of that product the
 15 term ‘Dolphin Safe’ or any other term or symbol
 16 that falsely claims or suggests that the tuna con-
 17 tained in the product was harvested using a method
 18 of fishing that is not harmful to dolphins if the
 19 product contains—

20 “(A) tuna harvested on the high seas by a
 21 vessel engaged in driftnet fishing;

22 “(B) tuna harvested in the eastern tropical
 23 Pacific Ocean by a vessel using purse seine nets
 24 which do not meet the requirements of being
 25 considered dolphin safe under paragraph (2);

1 “(C) tuna harvested outside the eastern
2 tropical Pacific Ocean by a vessel using purse
3 seine nets which do not meet the requirements
4 for being considered dolphin safe under para-
5 graph (3); or

6 “(D) tuna harvested by a vessel engaged in
7 any fishery identified by the Secretary pursuant
8 to paragraph (4) as having a regular and sig-
9 nificant incidental mortality of marine ani-
10 mals.”.

11 (h) Subsection (d)(2) of the Dolphin Protection
12 Consumer Information Act (16 U.S.C. 1385(d)(2)) is
13 amended to read as follows:

14 “(2) For purposes of paragraph (1)(B), a tuna
15 product that contains tuna harvested in the eastern
16 tropical Pacific Ocean by a vessel using purse seine
17 nets is dolphin safe if—

18 “(A) the vessel is of a type and size that
19 the Secretary has determined, consistent with
20 the International Dolphin Conservation Pro-
21 gram, is not capable of deploying its purse seine
22 nets on or to encircle dolphins; or

23 “(B)(i) the product is accompanied by a
24 written statement executed by the captain of
25 the vessel which harvested the tuna certifying

1 that no dolphins were killed during the sets in
2 which the tuna were caught;

3 “(ii) the product is accompanied by a writ-
4 ten statement executed by—

5 “(I) the Secretary or the Secretary’s
6 designee;

7 “(II) a representative of the Inter-
8 American Tropical Tuna Commission; or

9 “(III) an authorized representative of
10 a participating nation whose national pro-
11 gram meets the requirements of the Inter-
12 national Dolphin Conservation Program;

13 which states that there was an observer ap-
14 proved by the International Dolphin Conserva-
15 tion Program on board the vessel during the en-
16 tire trip and that such observer documented
17 that no dolphins were killed during the sets in
18 which the tuna in the tuna product were
19 caught; and

20 “(iii) the statements referred to in clauses
21 (i) and (ii) are endorsed in writing by each ex-
22 porter, importer, and processor of the product;
23 and

24 “(C) the written statements and endorse-
25 ments referred to in subparagraph (B) comply

1 with regulations promulgated by the Secretary
2 which would provide for the verification of tuna
3 products as dolphin safe.”

4 (i) Subsection (d) of the Dolphin Protection
5 Consumer Information Act (16 U.S.C. 1385(d)) is amend-
6 ed further by adding the following new paragraphs:

7 “(3) For purposes of paragraph (1)(C), tuna or
8 a tuna product that contains tuna harvested outside
9 the eastern tropical Pacific Ocean by a fishing vessel
10 using purse seine nets is dolphin safe if—

11 “(A) it is accompanied by a written state-
12 ment executed by the captain of the vessel cer-
13 tifying that no purse seine net was intentionally
14 deployed on or to encircle dolphins during the
15 particular voyage on which the tuna was har-
16 vested; or

17 “(B) in any fishing in which the Secretary
18 has determined that a regular and significant
19 association occurs between marine mammals
20 and tuna, it is accompanied by a written state-
21 ment executed by the captain of the vessel and
22 an observer, certifying that no purse seine net
23 was intentionally deployed on or to encircle ma-
24 rine mammals during the particular voyage on
25 which the tuna was harvested.

1 ~~“(4) For purposes of paragraph (1)(D), tuna or~~
 2 ~~a tuna product that contains tuna harvested in a~~
 3 ~~fishery identified by the Secretary as having a regu-~~
 4 ~~lar and significant incidental mortality or serious in-~~
 5 ~~jury of marine mammals is dolphin safe if it is ac-~~
 6 ~~companied by a written statement executed by the~~
 7 ~~captain of the vessel and, where determined to be~~
 8 ~~practicable by the Secretary, an observer participat-~~
 9 ~~ing in a national or international program acceptable~~
 10 ~~to the Secretary certifying that no marine mammals~~
 11 ~~were killed in the course of the fishing operation or~~
 12 ~~operations in which the tuna were caught.~~

13 ~~“(5) No tuna product may be labeled with any~~
 14 ~~reference to dolphins, porpoises, or marine mam-~~
 15 ~~mals, except as dolphin safe in accordance with this~~
 16 ~~subsection.”.~~

17 ~~(j) Subsection (f) of the Dolphin Protection~~
 18 ~~Consumer Information Act (16 U.S.C. 1385(f)) is amend-~~
 19 ~~ed to read as follows:~~

20 ~~“(f) REGULATIONS.—The Secretary, in consultation~~
 21 ~~with the Secretary of the Treasury, shall issue regulations~~
 22 ~~to implement this section not later than 3 months after~~
 23 ~~the date of enactment of the International Dolphin Con-~~
 24 ~~servation Program Act. In the development of these regu-~~
 25 ~~lations, the Secretary shall establish appropriate proce-~~

1 dures for ensuring the confidentiality of proprietary infor-
 2 mation the submission of which is voluntary or mandatory.
 3 The regulations shall establish a domestic tracking and
 4 verification program that provides for the effective track-
 5 ing of tuna labeled under subsection (d), including provi-
 6 sions that address each of the following items:

7 “(1) the use of weight calculation for purposes
 8 of tracking tuna caught, landed, processed, and ex-
 9 ported;

10 “(2) additional measures to enhance current ob-
 11 server coverage, including the establishment of cri-
 12 teria for training, and for improving monitoring and
 13 reporting capabilities and procedures;

14 “(3) the designation of well location, procedures
 15 for sealing holds, procedures for monitoring and cer-
 16 tifying both above and below deck, or through equal-
 17 ly effective methods, the tracking and verification of
 18 tuna labeled under subsection (d);

19 “(4) the reporting, receipt, and database stor-
 20 age of radio and facsimile transmittals from fishing
 21 vessels containing information related to the track-
 22 ing and verification of tuna, and the definition of
 23 set;

24 “(5) the shore-based verification and tracking
 25 throughout the fishing, transshipment, and canning

1 process by means of Inter-American Tropical Tuna
 2 Commission trip records or otherwise;

3 “(6) the use of periodic audits and spot checks
 4 for caught, landed, and processed tuna products la-
 5 beled in accordance with subsection (d); and

6 “(7) the provision of timely access to data re-
 7 quired under this subsection by the Secretary from
 8 harvesting nations to undertake the actions required
 9 in paragraph (6) of this subsection.

10 The Secretary may make such adjustments as may be ap-
 11 propriate to the regulations promulgated under this sub-
 12 section to implement an international tracking and ver-
 13 ification program that meets or exceeds the minimum re-
 14 quirements established by the Secretary under this sub-
 15 section.”.

16 **SEC. 5. AMENDMENTS TO TITLE III.**

17 (a) The heading of title III is amended to read as
 18 follows:

19 “TITLE III—INTERNATIONAL DOLPHIN
 20 CONSERVATION PROGRAM”.

21 (b) Section 301 (16 U.S.C. 1411) is amended—

22 (1) by striking paragraph (4) of subsection (a)
 23 and inserting the following:

24 “(4) Nations harvesting yellowfin tuna in the
 25 eastern tropical Pacific Ocean have demonstrated

1 their willingness to participate in appropriate multi-
 2 lateral agreements to reduce dolphin mortality pro-
 3 gressively to a level approaching zero through the
 4 setting of annual limits, with the goal of eliminating,
 5 dolphin mortality in that fishery. Recognition of the
 6 International Dolphin Conservation Program will as-
 7 sure that the existing trend of reduced dolphin mor-
 8 tality continues; that individual stocks of dolphins
 9 are adequately protected; and that the goal of elimi-
 10 nating all dolphin mortality continues to be a prior-
 11 ity.”; and

12 (2) by striking paragraphs (2) and (3) of sub-
 13 section (b) and inserting the following:

14 “(2) support the International Dolphin Con-
 15 servation Program and efforts within the Program
 16 to reduce, with the goal of eliminating, the mortality
 17 referred to in paragraph (1);

18 “(3) ensure that the market of the United
 19 States does not act as an incentive to the harvest of
 20 tuna caught with driftnets or caught by purse seine
 21 vessels in the eastern tropical Pacific Ocean not op-
 22 erating in compliance with the International Dolphin
 23 Conservation Program;”.

24 (c) Section 302 (16 U.S.C. 1412) is amended to read
 25 as follows:

1 **~~“SEC. 302. AUTHORITY OF THE SECRETARY.~~**

2 ~~“(a) REGULATIONS.—~~

3 ~~“(1) The Secretary shall issue regulations to~~
4 ~~implement the International Dolphin Conservation~~
5 ~~Program.~~

6 ~~“(2)(A) Not later than 3 months after the ef-~~
7 ~~fective date of the International Dolphin Conserva-~~
8 ~~tion Program Act, the Secretary shall issue regula-~~
9 ~~tions to authorize and govern the taking of marine~~
10 ~~mammals in the eastern tropical Pacific Ocean, in-~~
11 ~~cluding any species of marine mammal designated as~~
12 ~~depleted under this Act but not listed as endangered~~
13 ~~or threatened under the Endangered Species Act (16~~
14 ~~U.S.C. 1531 et seq.); by vessels of the United States~~
15 ~~participating in the International Dolphin Conserva-~~
16 ~~tion Program.~~

17 ~~“(B) Regulations issued under this section~~
18 ~~shall include provisions—~~

19 ~~“(i) requiring observers on each ves-~~
20 ~~sel;~~

21 ~~“(ii) requiring use of the backdown~~
22 ~~procedure or other procedures equally or~~
23 ~~more effective in avoiding mortality of ma-~~
24 ~~rine mammals in fishing operations;~~

25 ~~“(iii) prohibiting intentional sets on~~
26 ~~stocks and schools in accordance with the~~

1 International Dolphin Conservation Pro-
2 gram;

3 “(iv) requiring the use of special
4 equipment, including dolphin safety panels
5 in nets, monitoring devices as identified by
6 the International Dolphin Conservation
7 Program to detect unsafe fishing condi-
8 tions that may cause high incidental dol-
9 phin mortality before nets are deployed by
10 a tuna vessel, operable rafts, speedboats
11 with towing bridles, floodlights in operable
12 condition, and diving masks and snorkels;

13 “(v) ensuring that the backdown pro-
14 cedure during sets of purse seine net on
15 marine mammals is completed and rolling
16 of the net to sack up has begun no later
17 than 30 minutes before sundown;

18 “(vi) banning the use of explosive de-
19 vices in all purse seine operations;

20 “(vii) establishing per vessel maxi-
21 mum annual dolphin mortality limits, total
22 dolphin mortality limits and per-stock per-
23 year mortality limits in accordance with
24 the International Dolphin Conservation
25 Program;

1 “(viii) preventing the making of inten-
2 tional sets on dolphins after reaching ei-
3 ther the vessel maximum annual dolphin
4 mortality limits, total dolphin mortality
5 limits, or per-stock per-year mortality lim-
6 its;

7 “(ix) preventing the fishing on dol-
8 phins by a vessel without an assigned ves-
9 sel dolphin mortality limit;

10 “(x) allowing for the authorization
11 and conduct of experimental fishing oper-
12 ations, under such terms and conditions as
13 the Secretary may prescribe, for the pur-
14 pose of testing proposed improvements in
15 fishing techniques and equipment that may
16 reduce or eliminate dolphin mortality or do
17 not require the encirclement of dolphins in
18 the course of commercial yellowfin tuna
19 fishing;

20 “(xi) authorizing fishing with the area
21 covered by the International Dolphin Con-
22 servation Program by vessels of the United
23 States without the use of special equip-
24 ment or nets if the vessel takes an observer
25 and does not intentionally deploy nets on;

1 or encircle, dolphins, under such terms and
 2 conditions as the Secretary may prescribe;
 3 and

4 “(xii) containing such other restric-
 5 tions and requirements as the Secretary
 6 determines are necessary to implement the
 7 International Dolphin Conservation Pro-
 8 gram with respect to vessels of the United
 9 States.

10 “(C) ADJUSTMENTS TO REQUIREMENTS.—

11 The Secretary may make such adjustments as
 12 may be appropriate to requirements of subpara-
 13 graph (B) that pertain to fishing gear, vessel
 14 equipment, and fishing practices to the extent
 15 the adjustments are consistent with the Inter-
 16 national Dolphin Conservation Program.

17 “(b) CONSULTATION.—In developing any regulation
 18 under this section, the Secretary shall consult with the
 19 Secretary of State, the Marine Mammal Commission and
 20 the United States Commissioners to the Inter-American
 21 Tropical Tuna Commission appointed under section 3 of
 22 the Tuna Conventions Act of 1950 (16 U.S.C. 952).

23 “(c) EMERGENCY REGULATIONS.—

24 “(1) If the Secretary determines, on the basis
 25 of the best scientific information available (including

1 that obtained under the International Dolphin Con-
2 servation Program) that the incidental mortality and
3 serious injury of marine mammals authorized under
4 this title is having, or is likely to have, a significant
5 adverse effect on a marine mammal stock or species;
6 the Secretary shall—

7 “(A) notify the Inter-American Tropical
8 Tuna Commission of his or her findings, along
9 with recommendations to the Commission as to
10 actions necessary to reduce incidental mortality
11 and serious injury and mitigate such adverse
12 impact; and

13 “(B) prescribe emergency regulations to
14 reduce incidental mortality and serious injury
15 and mitigate such adverse impact.

16 “(2) Before taking action under subparagraph
17 (A) or (B) of paragraph (1), the Secretary shall con-
18 sult with the Secretary of State, the Marine Mam-
19 mal Commission, and the United States Commis-
20 sioners to the Inter-American Tropical Tuna Com-
21 mission.

22 “(3) Emergency regulations prescribed under
23 this subsection—

24 “(A) shall be published in the Federal
25 Register, together with an explanation thereof;

1 “(B) shall remain in effect for the duration
2 of the applicable fishing year; and

3 “(C) may be terminated by the Secretary
4 at an earlier date by publication in the Federal
5 Register of a notice of termination if the Sec-
6 retary determines that the reasons for the
7 emergency action no longer exist.

8 “(4) If the Secretary finds that the incidental
9 mortality and serious injury of marine mammals in
10 the yellowfin tuna fishery in the eastern tropical Pa-
11 cific Ocean is continuing to have a significant ad-
12 verse impact on a stock or species, the Secretary
13 may extend the emergency regulations for such addi-
14 tional periods as may be necessary.

15 “(d) RESEARCH.—The Secretary shall, in coopera-
16 tion with the nations participating in the International
17 Dolphin Conservation Program and with the Inter-Amer-
18 ican Tropical Tuna Commission, undertake or support ap-
19 propriate scientific research to further the goals of the
20 International Dolphin Conservation Program. Such re-
21 search may include—

22 “(1) devising cost-effective fishing methods and
23 gear so as to reduce, with the goal of eliminating,
24 the incidental mortality and serious injury of marine

1 mammals in connection with commercial purse seine
2 fishing in the eastern tropical Pacific Ocean;

3 “(2) developing cost-effective methods of fishing
4 for mature yellowfin tuna without setting nets on
5 dolphins or other marine mammals;

6 “(3) carrying out stock assessments for those
7 marine mammal species and marine mammal stocks
8 taken in the purse seine fishery for yellowfin tuna in
9 the eastern tropical Pacific Ocean, including species
10 or stocks not within waters under the jurisdiction of
11 the United States;

12 “(4) studying the effect of chase and encirclement
13 on the health and biology of dolphin and dolphin
14 populations incidentally taken in the course of
15 purse seine fishing for yellowfin tuna in the eastern
16 tropical Pacific Ocean; and

17 “(5) determining the extent to which the incidental
18 take of nontarget species, including juvenile
19 tuna, occurs in the course of purse seine fishing for
20 yellowfin tuna in the eastern tropical Pacific Ocean,
21 the geographic location of the incidental take, and
22 the impact of that incidental take on tuna stocks,
23 and nontarget species.

24 There are authorized to be appropriated to the Secretary
25 \$1,000,000 to be used by the Secretary, acting through

1 the National Marine Fisheries Service, to carry out para-
 2 graph (4). Upon completion of the study required by that
 3 paragraph, the Secretary shall submit a report containing
 4 the results of the study and any recommendations the Sec-
 5 retary may have to offer on the basis of the study to the
 6 Committee on Commerce, Science, and Transportation of
 7 the Senate and the Committee on Commerce of the House
 8 of Representatives, and to the Inter-American Tropical
 9 Tuna Commission. The Secretary shall include a descrip-
 10 tion of the annual results of research carried out under
 11 this subsection in the report required under section 303.”.

12 (d) Section 303 (16 U.S.C. 1413) is hereby repealed.

13 (e) Section 304 (16 U.S.C. 1414) is amended to read
 14 as follows:

15 **“SEC. 303. REPORTS BY THE SECRETARY.**

16 “Notwithstanding section 103(f), the Secretary shall
 17 submit annual reports to the Congress which include—

18 “(1) results of research conducted pursuant to
 19 section 302;

20 “(2) a description of the status and trends of
 21 stocks of tuna;

22 “(3) a description of the efforts to assess,
 23 avoid, reduce, and minimize the bycatch of juvenile
 24 yellowfin tuna and bycatch of nontarget species;

1 “(4) a description of the activities of the Inter-
 2 national Dolphin Conservation Program and of the
 3 efforts of the United States in support of the Pro-
 4 gram’s goals and objectives, including the protection
 5 of dolphin populations in the eastern tropical Pacific
 6 Ocean, and an assessment of the effectiveness of the
 7 Program;

8 “(5) actions taken by the Secretary under sec-
 9 tion 101(a)(2)(B) and section 101(d);

10 “(6) copies of any relevant resolutions and deci-
 11 sions of the Inter-American Tropical Tuna Commis-
 12 sion, and any regulations promulgated by the Sec-
 13 retary under this title; and

14 “(7) any other information deemed relevant by
 15 the Secretary.”.

16 (f) Section 305 (16 U.S.C. 1415) is hereby repealed.

17 (g) Section 306 (16 U.S.C. 1416) is amended to read
 18 as follows:

19 **“SEC. 304. PERMITS.**

20 “(a) IN GENERAL.—

21 “(1) Consistent with the regulations issued pur-
 22 suant to section 302, the Secretary shall issue a per-
 23 mit to a vessel of the United States authorizing par-
 24 ticipation in the International Dolphin Conservation
 25 Program and may require a permit for the person

1 actually in charge of and controlling the fishing op-
2 eration of the vessel. The Secretary shall prescribe
3 such procedures as are necessary to carry out this
4 subsection, including requiring the submission of—

5 “(A) the name and official number or
6 other identification of each fishing vessel for
7 which a permit is sought, together with the
8 name and address of the owner thereof; and

9 “(B) the tonnage, hold capacity, speed,
10 processing equipment, and type and quantity of
11 gear, including an inventory of special equip-
12 ment required under section 302, with respect
13 to each vessel.

14 “(2) The Secretary is authorized to charge a
15 fee for granting an authorization and issuing a per-
16 mit under this section. The level of fees charged
17 under this paragraph may not exceed the adminis-
18 trative cost incurred in granting an authorization
19 and issuing a permit. Fees collected under this para-
20 graph shall be available to the Under Secretary of
21 Commerce for Oceans and Atmosphere for expenses
22 incurred in granting authorizations and issuing per-
23 mits under this section.

24 “(3) After the effective date of the Inter-
25 national Dolphin Conservation Program Act, no ves-

1 sel of the United States shall operate in the yellow-
 2 fin tuna fishery in the eastern tropical Pacific Ocean
 3 without a valid permit issued under this section.

4 “(b) PERMIT SANCTIONS.—

5 “(1) In any case in which—

6 “(A) a vessel for which a permit has been
 7 issued under this section has been used in the
 8 commission of an act prohibited under section
 9 305;

10 “(B) the owner or operator of any such
 11 vessel or any other person who has applied for
 12 or been issued a permit under this section has
 13 acted in violation of section 305; or

14 “(C) any civil penalty or criminal fine im-
 15 posed on a vessel, owner or operator of a vessel,
 16 or other person who has applied for or been is-
 17 sued a permit under this section has not been
 18 paid or is overdue;

19 the Secretary may—

20 “(i) revoke any permit with respect to
 21 such vessel, with or without prejudice to
 22 the issuance of subsequent permits;

23 “(ii) suspend such permit for a period
 24 of time considered by the Secretary to be
 25 appropriate;

1 “(iii) deny such permit; or

2 “(iv) impose additional conditions or
3 restrictions on any permit issued to, or ap-
4 plied for by, any such vessel or person
5 under this section.

6 “(2) In imposing a sanction under this sub-
7 section, the Secretary shall take into account—

8 “(A) the nature, circumstances, extent,
9 and gravity of the prohibited acts for which the
10 sanction is imposed; and

11 “(B) with respect to the violator, the de-
12 gree of culpability, any history of prior offenses,
13 and other such matters as justice requires.

14 “(3) Transfer of ownership of a vessel, by sale
15 or otherwise, shall not extinguish any permit sanc-
16 tion that is in effect or is pending at the time of
17 transfer of ownership. Before executing the transfer
18 of ownership of a vessel, by sale or otherwise, the
19 owner shall disclose in writing to the prospective
20 transferee the existence of any permit sanction that
21 will be in effect or pending with respect to the vessel
22 at the time of transfer.

23 “(4) In the case of any permit that is sus-
24 pended for the failure to pay a civil penalty or crimi-
25 nal fine, the Secretary shall reinstate the permit

1 upon payment of the penalty or fine and interest
2 thereon at the prevailing rate.

3 ~~“(5) No sanctions shall be imposed under this~~
4 ~~section unless there has been a prior opportunity for~~
5 ~~a hearing on the facts underlying the violation for~~
6 ~~which the sanction is imposed, either in conjunction~~
7 ~~with a civil penalty proceeding under this title or~~
8 ~~otherwise.”.~~

9 (h) Section 307 (16 U.S.C. 1417) is hereby redesign-
10 nated as section 305, and amended—

11 (1) by striking paragraphs (1), (2), and (3) of
12 subsection (a) and inserting the following:

13 ~~“(1) for any person to sell, purchase, offer for~~
14 ~~sale, transport, or ship, in the United States, any~~
15 ~~tuna or tuna product unless the tuna or tuna prod-~~
16 ~~uct is either dolphin safe or has been harvested in~~
17 ~~compliance with the International Dolphin Conserva-~~
18 ~~tion Program by a country that is a member of the~~
19 ~~Inter-American Tropical Tuna Commission or has~~
20 ~~initiated and within 6 months thereafter completed~~
21 ~~all steps required of applicant nations in accordance~~
22 ~~with Article V, paragraph 3 of the Convention estab-~~
23 ~~lishing the Inter-American Tropical Tuna Commis-~~
24 ~~sion, to become a member of that organization;~~

1 (B) by striking paragraph (2) and insert-
2 ing in lieu thereof the following:

3 “(2) except as provided for in subsection
4 101(d), for any person or vessel subject to the juris-
5 diction of the United States intentionally to set a
6 purse seine net on or to encircle any marine mam-
7 mal in the course of tuna fishing operations in the
8 eastern tropical Pacific Ocean except in accordance
9 with this title and regulations issued under pursuant
10 to this title; and

11 “(3) for any person to import any yellowfin
12 tuna or yellowfin tuna product or any other fish or
13 fish product in violation of a ban on importation im-
14 posed under section 101(a)(2);”;

15 (2) by inserting “(a)(5) or” before “(a)(6)” in
16 subsection (b)(2); and

17 (3) by striking subsection (d).

18 (i) Section 308 (16 U.S.C. 1418) is redesignated as
19 section 306, and amended by striking “303” and inserting
20 in lieu thereof “302(d)”.

21 (j) CLERICAL AMENDMENTS.—The table of contents
22 in the first section of the Marine Mammal Protection Act
23 of 1972 is amended by striking the items relating to title
24 III and inserting in lieu thereof the following:

“TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

“Sec. 301: Findings and policy.
 “Sec. 302: Authority of the Secretary.
 “Sec. 303: Reports by the Secretary.
 “Sec. 304: Permits.
 “Sec. 305: Prohibitions.
 “Sec. 306: Authorization of appropriations.”.

1 SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT.

2 (a) Section 3(c) of the Tuna Conventions Act (16
 3 U.S.C. 952(c)) is amended to read as follows:

4 “(c) at least one shall be either the Administrator,
 5 or an appropriate officer, of the National Marine Fisheries
 6 Service; and”.

7 (b) Section 4 of the Tuna Conventions Act (16 U.S.C.
 8 953) is amended to read as follows:

9 **“SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC**
 10 **ADVISORY SUBCOMMITTEE.**

11 “(a) APPOINTMENTS; PUBLIC PARTICIPATION; COM-
 12 PENSATION.—The Secretary, in consultation with the
 13 United States Commissioners, shall—

14 “(1) appoint a General Advisory Committee
 15 which shall be composed of not less than 5 nor more
 16 than 15 persons with balanced representation from
 17 the various groups participating in the fisheries in-
 18 cluded under the conventions, and from nongovern-
 19 mental conservation organizations;

20 “(2) appoint a Scientific Advisory Subcommit-
 21 tee which shall be composed of not less than 5 nor
 22 more than 15 qualified scientists with balanced rep-

1 representation from the public and private sectors, in-
 2 cluding nongovernmental conservation organizations;

3 “(3) establish procedures to provide for appro-
 4 priate public participation and public meetings and
 5 to provide for the confidentiality of confidential busi-
 6 ness data; and

7 “(4) fix the terms of office of the members of
 8 the General Advisory Committee and Scientific Advi-
 9 sory Subcommittee, who shall receive no compensa-
 10 tion for their services as such members.

11 “(b) FUNCTIONS.—

12 “(1) GENERAL ADVISORY COMMITTEE.—The
 13 General Advisory Committee shall be invited to have
 14 representatives attend all nonexecutive meetings of
 15 the United States sections and shall be given full op-
 16 portunity to examine and to be heard on all pro-
 17 posed programs of investigations, reports, rec-
 18 ommendations, and regulations of the Commission.
 19 The General Advisory Committee may attend all
 20 meetings of the international commissions to which
 21 they are invited by such commissions.

22 “(2) SCIENTIFIC ADVISORY SUBCOMMITTEE.—

23 “(A) ADVICE.—The Scientific Advisory
 24 Subcommittee shall advise the General Advisory

1 Committee and the Commissioners on matters
2 including—

3 “(i) the conservation of ecosystems;

4 “(ii) the sustainable uses of living ma-
5 rine resources related to the tuna fishery
6 in the eastern Pacific Ocean; and

7 “(iii) the long-term conservation and
8 management of stocks of living marine re-
9 sources in the eastern tropical Pacific
10 Ocean.

11 “(B) OTHER FUNCTIONS AND ASSIST-
12 ANCE.—The Scientific Advisory Subcommittee
13 shall, as requested by the General Advisory
14 Committee, the United States Commissioners,
15 or the Secretary, perform functions and provide
16 assistance required by formal agreements en-
17 tered into by the United States for this fishery,
18 including the International Dolphin Conserva-
19 tion Program. These functions may include—

20 “(i) the review of data from the Pro-
21 gram, including data received from the
22 Inter-American Tropical Tuna Commis-
23 sion;

24 “(ii) recommendations on research
25 needs, including ecosystems, fishing prac-

1 tices, and gear technology research, includ-
 2 ing the development and use of selective,
 3 environmentally safe and cost-effective
 4 fishing gear, and on the coordination and
 5 facilitation of such research;

6 “(iii) recommendations concerning sci-
 7 entific reviews and assessments required
 8 under the Program and engaging, as ap-
 9 propriate, in such reviews and assessments;

10 “(iv) consulting with other experts as
 11 needed; and

12 “(v) recommending measures to as-
 13 sure the regular and timely full exchange
 14 of data among the parties to the Program
 15 and each nation’s National Scientific Advi-
 16 sory Committee (or its equivalent).

17 “(3) ATTENDANCE AT MEETINGS.—The Sci-
 18 entific Advisory Subcommittee shall be invited to
 19 have representatives attend all nonexecutive meet-
 20 ings of the United States sections and the General
 21 Advisory Subcommittee and shall be given full op-
 22 portunity to examine and to be heard on all pro-
 23 posed programs of scientific investigation, scientific
 24 reports, and scientific recommendations of the com-
 25 mission. Representatives of the Scientific Advisory

1 Subcommittee may attend meetings of the Inter-
 2 American Tropical Tuna Commission in accordance
 3 with the rules of such Commission.”.

4 **SEC. 7. EFFECTIVE DATE.**

5 Sections 3 through 6 of this Act shall become effec-
 6 tive upon certification by the Secretary of State to Con-
 7 gress that a binding resolution of the Inter-American
 8 Tropical Tuna Commission or other legally binding instru-
 9 ment establishing the International Dolphin Conservation
 10 Program has been adopted and is in effect.

11 **SECTION 1. SHORT TITLE; REFERENCES.**

12 (a) *SHORT TITLE.*—This Act may be cited as the
 13 “International Dolphin Conservation Program Act”.

14 (b) *REFERENCES TO MARINE MAMMAL PROTECTION*
 15 *ACT.*—Except as otherwise expressly provided, whenever in
 16 this Act an amendment or repeal is expressed in terms of
 17 an amendment to, or repeal of, a section or other provision,
 18 the reference shall be considered to be made to a section or
 19 other provision of the Marine Mammal Protection Act of
 20 1972 (16 U.S.C. 1361 et seq.).

21 **SEC. 2. PURPOSE AND FINDINGS.**

22 (a) *PURPOSES.*—The purposes of this Act are—

23 (1) to give effect to the Declaration of Panama,
 24 signed October 4, 1995, by the Governments of Belize,
 25 Colombia, Costa Rica, Ecuador, France, Honduras,

1 *Mexico, Panama, Spain, the United States of Amer-*
2 *ica, Vanuatu, and Venezuela, including the establish-*
3 *ment of the International Dolphin Conservation Pro-*
4 *gram, relating to the protection of dolphins and other*
5 *species, and the conservation and management of*
6 *tuna in the eastern tropical Pacific Ocean;*

7 *(2) to recognize that nations fishing for tuna in*
8 *the eastern tropical Pacific Ocean have achieved sig-*
9 *nificant reductions in dolphin mortality associated*
10 *with that fishery; and*

11 *(3) to eliminate the ban on imports of tuna from*
12 *those nations that are in compliance with the Inter-*
13 *national Dolphin Conservation Program.*

14 *(b) FINDINGS.—The Congress finds that—*

15 *(1) the nations that fish for tuna in the eastern*
16 *tropical Pacific Ocean have achieved significant re-*
17 *ductions in dolphin mortality associated with the*
18 *purse seine fishery from hundreds of thousands annu-*
19 *ally to fewer than 5,000 annually;*

20 *(2) the provisions of the Marine Mammal Protec-*
21 *tion Act of 1972 that impose a ban on imports from*
22 *nations that fish for tuna in the eastern tropical Pa-*
23 *cific Ocean have served as an incentive to reduce dol-*
24 *phin mortalities;*

1 (3) *tuna canners and processors of the United*
 2 *States have led the canning and processing industry*
 3 *in promoting a dolphin-safe tuna market; and*

4 (4) *12 signatory nations to the Declaration of*
 5 *Panama, including the United States, agreed under*
 6 *that Declaration to require that the total annual dol-*
 7 *phin mortality in the purse seine fishery for yellowfin*
 8 *tuna in the eastern tropical Pacific Ocean not exceed*
 9 *5,000 animals, with a commitment and objective to*
 10 *progressively reduce dolphin mortality to a level ap-*
 11 *proaching zero through the setting of annual limits*
 12 *with the goal of eliminating dolphin mortality.*

13 **SEC. 3. DEFINITIONS.**

14 *Section 3 (16 U.S.C. 1362) is amended by adding at*
 15 *the end the following new paragraphs:*

16 “(28) *The term ‘International Dolphin Conserva-*
 17 *tion Program’ means the international program es-*
 18 *tablished by the agreement signed in LaJolla, Califor-*
 19 *nia, in June, 1992, as formalized, modified, and en-*
 20 *hanced in accordance with the Declaration of Pan-*
 21 *ama, that requires—*

22 “(A) *that the total annual dolphin mortal-*
 23 *ity in the purse seine fishery for yellow fin tuna*
 24 *in the eastern tropical Pacific Ocean shall not*
 25 *exceed 5,000 animals with a commitment and*

1 *objective to progressively reduce dolphin mortal-*
 2 *ity to a level approaching zero through the set-*
 3 *ting of annual limits;*

4 “(B) the establishment of a per stock per
 5 *year dolphin mortality limit at a level between*
 6 *0.2 percent and 0.1 percent of the minimum*
 7 *population estimate to be in effect through cal-*
 8 *endar year 2000;*

9 “(C) the establishment of a per stock per
 10 *year dolphin mortality limit at a level less than*
 11 *or equal to 0.1 percent of the minimum popu-*
 12 *lation estimate beginning with the calendar year*
 13 *2001;*

14 “(D) that if a dolphin mortality limit is ex-
 15 *ceeded under—*

16 “(i) subparagraph (A), all sets on dol-
 17 *phins shall cease for the applicable fishing*
 18 *year; and*

19 “(ii) subparagraph (B) or (C), all sets
 20 *on the stocks covered under subparagraph*
 21 *(B) or (C) and any mixed schools that con-*
 22 *tain any of those stocks shall cease for the*
 23 *applicable fishing year;*

24 “(E) a scientific review and assessment to
 25 *be conducted in calendar year 1998 to—*

1 “(i) assess progress in meeting the ob-
 2 jectives set for calendar year 2000 under
 3 subparagraph (B); and

4 “(ii) as appropriate, consider rec-
 5 ommendations for meeting these objectives;

6 “(F) a scientific review and assessment to
 7 be conducted in calendar year 2000—

8 “(i) to review the stocks covered under
 9 subparagraph (C); and

10 “(ii) as appropriate to consider rec-
 11 ommendations to further the objectives set
 12 under that subparagraph;

13 “(G) the establishment of a per vessel maxi-
 14 mum annual dolphin mortality limit consistent
 15 with the established per-year mortality limits, as
 16 determined under subparagraphs (A) through
 17 (C); and

18 “(H) the provision of a system of incentives
 19 to vessel captains to continue to reduce dolphin
 20 mortality, with the goal of eliminating dolphin
 21 mortality.

22 “(29) The term ‘Declaration of Panama’ means
 23 the declaration signed in Panama City, Republic of
 24 Panama, on October 4, 1995.”.

1 **SEC. 4. AMENDMENTS TO TITLE I.**

2 (a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is
3 amended—

4 (1) by inserting after the first sentence “Such
5 authorizations may be granted under title III with
6 respect to purse seine fishing for yellowfin tuna in the
7 eastern tropical Pacific Ocean, subject to regulations
8 prescribed under that title by the Secretary without
9 regard to section 103” before the period; and

10 (2) by striking the semicolon in the second sen-
11 tence and all that follows through “practicable”.

12 (b) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is
13 amended—

14 (1) by striking subparagraph (B) and inserting
15 the following:

16 “(B) in the case of yellowfin tuna harvested
17 with purse seine nets in the eastern tropical Pa-
18 cific Ocean, and products therefrom, to be ex-
19 ported to the United States, shall require that the
20 government of the exporting nation provide docu-
21 mentary evidence that—

22 “(i)(I) the tuna or products therefrom
23 were not banned from importation under
24 this paragraph before the effective date of
25 the International Dolphin Conservation
26 Program Act; or

1 “(II) the tuna or products therefrom
2 were harvested after the effective date of the
3 International Dolphin Conservation Pro-
4 gram Act by vessels of a nation which par-
5 ticipates in the International Dolphin Con-
6 servation Program, and such harvesting na-
7 tion is either a member of the Inter-Amer-
8 ican Tropical Tuna Commission or has ini-
9 tiated (and within 6 months thereafter com-
10 pleted) all steps required of applicant na-
11 tions, in accordance with article V, para-
12 graph 3 of the Convention establishing the
13 Inter-American Tropical Tuna Commission,
14 to become a member of that organization;

15 “(ii) such nation is meeting the obliga-
16 tions of the International Dolphin Con-
17 servation Program and the obligations of
18 membership in the Inter-American Tropical
19 Tuna Commission, including all financial
20 obligations; and

21 “(iii) the total dolphin mortality lim-
22 its, and per stock per year dolphin mortal-
23 ity limits permitted for that nation’s vessels
24 under the International Dolphin Conserva-
25 tion Program do not exceed those levels de-

1 *terminated for 1996, or in any year there-*
 2 *after, consistent with a commitment and ob-*
 3 *jective to progressively reduce dolphin mor-*
 4 *tality to a level approaching zero through*
 5 *the setting of annual limits and the goal of*
 6 *eliminating dolphin mortality, and require-*
 7 *ments of the International Dolphin Con-*
 8 *servation Program; and”*

9 (2) *by redesignating subparagraphs (C), (D),*
 10 *and (E) as subparagraphs (D), (E), and (F), respec-*
 11 *tively;*

12 (3) *by inserting after subparagraph (B) the fol-*
 13 *lowing:*

14 *“(C) the Secretary shall not accept such*
 15 *documentary evidence if—*

16 *“(i) the government of the harvesting*
 17 *nation does not provide directly or author-*
 18 *ize the Inter-American Tropical Tuna Com-*
 19 *mission to release complete and accurate in-*
 20 *formation to the Secretary in a timely*
 21 *manner to allow determination of compli-*
 22 *ance with the International Dolphin Con-*
 23 *servation Program; or*

24 *“(ii) the government of the harvesting*
 25 *nation does not provide directly or author-*

1 *ize the Inter-American Tropical Tuna Com-*
2 *mission to release complete and accurate in-*
3 *formation to the Secretary in a timely*
4 *manner for the purposes of tracking and*
5 *verifying compliance with the minimum re-*
6 *quirements established by the Secretary in*
7 *regulations promulgated under subsection*
8 *(f) of the Dolphin Protection Consumer In-*
9 *formation Act (16 U.S.C. 1385(f)); or*

10 *“(iii) after taking into consideration*
11 *this information, findings of the Inter-*
12 *American Tropical Tuna Commission, and*
13 *any other relevant information, including*
14 *information that a nation is consistently*
15 *failing to take enforcement actions on viola-*
16 *tions which diminish the effectiveness of the*
17 *International Dolphin Conservation Pro-*
18 *gram, the Secretary, in consultation with*
19 *the Secretary of State, finds that the har-*
20 *vesting nation is not in compliance with the*
21 *International Dolphin Conservation Pro-*
22 *gram.”; and*

23 *(4) by striking “subparagraph (E)” in the mat-*
24 *ter after subparagraph (F), as redesignated by para-*

1 *graph (2) of this subsection, and inserting “subpara-*
 2 *graph (F)”.*

3 *(c) Section 101 (16 U.S.C. 1371) is amended by add-*
 4 *ing at the end the following new subsection:*

5 *“(d) ACT NOT TO APPLY TO INCIDENTAL TAKINGS BY*
 6 *UNITED STATES CITIZENS EMPLOYED ON FOREIGN VES-*
 7 *SELS OUTSIDE THE UNITED STATES EEZ.—The provi-*
 8 *sions of this Act shall not apply to a citizen of the United*
 9 *States who incidentally takes any marine mammal during*
 10 *fishing operations outside the United States exclusive eco-*
 11 *nomie zone (as defined in section 3 of the Magnuson-Stevens*
 12 *Fishery Conservation and Management Act (16 U.S.C.*
 13 *1802) when employed on a foreign fishing vessel of a har-*
 14 *vesting nation which is in compliance with the Inter-*
 15 *national Dolphin Conservation Program.”.*

16 *(d) Section 104(h) (16 U.S.C. 1374(h)) is amended to*
 17 *read as follows:*

18 *“(h) GENERAL PERMITS.—*

19 *“(1) Consistent with the regulations prescribed*
 20 *pursuant to section 103 of this title and to the re-*
 21 *quirements of section 101 of this title, the Secretary*
 22 *may issue an annual permit to a United States purse*
 23 *seine fishing vessel for the taking of such marine*
 24 *mammals, and shall issue regulations to cover the use*
 25 *of any such annual permits.*

1 “(2) *Such annual permits for the incidental tak-*
 2 *ing of marine mammals in the course of commercial*
 3 *purse seine fishing for yellowfin tuna in the eastern*
 4 *tropical Pacific Ocean shall be governed by section*
 5 *304 of this Act, subject to the regulations issued pur-*
 6 *suant to section 302 of this Act.*”.

7 *(e) Section 108(a)(2) (16 U.S.C. 1378(a)(2)) is amend-*
 8 *ed—*

9 *(1) by striking “and” at the end of subpara-*
 10 *graph (A);*

11 *(2) by inserting after subparagraph (B) the fol-*
 12 *lowing:*

13 *“(C) negotiations to revise the Convention*
 14 *for the Establishment of an Inter-American*
 15 *Tropical Tuna Commission (1 U.S.T. 230; TIAS*
 16 *2044) which will incorporate—*

17 *“(i) the conservation and management*
 18 *provisions agreed to by the nations which*
 19 *have signed the Declaration of Panama and*
 20 *in the Straddling Fish Stocks and Highly*
 21 *Migratory Fish Stocks Agreement, as*
 22 *opened for signature on December 4, 1995;*
 23 *and*

24 *“(ii) a revised schedule of annual con-*
 25 *tributions to the expenses of the Inter-Amer-*

1 ican Tropical Tuna Commission that is eq-
2 uitable to participating nations; and

3 “(D) discussions with those countries par-
4 ticipating, or likely to participate, in the Inter-
5 national Dolphin Conservation Program, for the
6 purpose of identifying sources of funds needed for
7 research and other measures promoting effective
8 protection of dolphins, other marine species, and
9 the marine ecosystem;”.

10 (f) Section 110(a) (16 U.S.C. 1380(a)) is amended—

11 (1) by striking “(1)” in paragraph (1); and

12 (2) by striking paragraph (2).

13 (g) Subsection (d)(1) of the Dolphin Protection
14 Consumer Information Act (16 U.S.C. 1385(d)(1)) is
15 amended to read as follows:

16 “(1) It is a violation of section 5 of the Federal
17 Trade Commission Act for any producer, importer,
18 exporter, distributor, or seller of any tuna product
19 that is exported from or offered for sale in the United
20 States to include on the label of that product the term
21 ‘Dolphin Safe’ or any other term or symbol that false-
22 ly claims or suggests that the tuna contained in the
23 product was harvested using a method of fishing that
24 is not harmful to dolphins if the product contains—

1 “(A) tuna harvested on the high seas by a
2 vessel engaged in driftnet fishing;

3 “(B) tuna harvested in the eastern tropical
4 Pacific Ocean by a vessel using purse seine nets
5 which do not meet the requirements of being con-
6 sidered dolphin safe under paragraph (2);

7 “(C) tuna harvested outside the eastern
8 tropical Pacific Ocean by a vessel using purse
9 seine nets which do not meet the requirements for
10 being considered dolphin safe under paragraph
11 (3); or

12 “(D) tuna harvested by a vessel engaged in
13 any fishery identified by the Secretary pursuant
14 to paragraph (4) as having a regular and sig-
15 nificant incidental mortality of marine ani-
16 mals.”.

17 (h) Subsection (d)(2) of the Dolphin Protection
18 Consumer Information Act (16 U.S.C. 1385(d)(2)) is
19 amended to read as follows:

20 “(2) For purposes of paragraph (1)(B), a tuna
21 product that contains tuna harvested in the eastern
22 tropical Pacific Ocean by a vessel using purse seine
23 nets is dolphin safe if—

24 “(A) the vessel is of a type and size that the
25 Secretary has determined, consistent with the

1 *International Dolphin Conservation Program, is*
2 *not capable of deploying its purse seine nets on*
3 *or to encircle dolphins; or*

4 *“(B)(i) the product is accompanied by a*
5 *written statement executed by the captain of the*
6 *vessel which harvested the tuna certifying that no*
7 *dolphins were killed or seriously injured during*
8 *the sets in which the tuna were caught;*

9 *“(ii) the product is accompanied by a writ-*
10 *ten statement executed by—*

11 *“(I) the Secretary or the Secretary’s*
12 *designee;*

13 *“(II) a representative of the Inter-*
14 *American Tropical Tuna Commission; or*

15 *“(III) an authorized representative of*
16 *a participating nation whose national pro-*
17 *gram meets the requirements of the Inter-*
18 *national Dolphin Conservation Program,*
19 *which states that there was an observer approved*
20 *by the International Dolphin Conservation Pro-*
21 *gram on board the vessel during the entire trip*
22 *and that such observer documented that no dol-*
23 *phins were killed or seriously injured during the*
24 *sets in which the tuna in the tuna product were*
25 *caught; and*

1 “(iii) the statements referred to in clauses
 2 (i) and (ii) are endorsed in writing by each ex-
 3 porter, importer, and processor of the product;
 4 and

5 “(C) the written statements and endorse-
 6 ments referred to in subparagraph (B) comply
 7 with regulations promulgated by the Secretary
 8 which would provide for the verification of tuna
 9 products as dolphin safe.”.

10 (i) Subsection (d) of the Dolphin Protection Consumer
 11 Information Act (16 U.S.C. 1385(d)) is amended further
 12 by adding the following new paragraphs:

13 “(3) For purposes of paragraph (1)(C), tuna or
 14 a tuna product that contains tuna harvested outside
 15 the eastern tropical Pacific Ocean by a fishing vessel
 16 using purse seine nets is dolphin safe if—

17 “(A) it is accompanied by a written state-
 18 ment executed by the captain of the vessel certify-
 19 ing that no purse seine net was intentionally de-
 20 ployed on or to encircle dolphins during the par-
 21 ticular voyage on which the tuna was harvested;
 22 or

23 “(B) in any fishing in which the Secretary
 24 has determined that a regular and significant
 25 association occurs between marine mammals and

1 *tuna, it is accompanied by a written statement*
2 *executed by the captain of the vessel and an ob-*
3 *server, certifying that no purse seine net was in-*
4 *tentionally deployed on or to encircle marine*
5 *mammals during the particular voyage on which*
6 *the tuna was harvested.*

7 “(4) *For purposes of paragraph (1)(D), tuna or*
8 *a tuna product that contains tuna harvested in a*
9 *fishery identified by the Secretary as having a regu-*
10 *lar and significant incidental mortality or serious in-*
11 *jury of marine mammals is dolphin safe if it is ac-*
12 *companied by a written statement executed by the*
13 *captain of the vessel and, where determined to be*
14 *practicable by the Secretary, an observer participat-*
15 *ing in a national or international program accept-*
16 *able to the Secretary certifying that no marine mam-*
17 *mals were killed or seriously injured in the course of*
18 *the fishing operation or operations in which the tuna*
19 *were caught.*

20 “(5) *No tuna product may be labeled with any*
21 *reference to dolphins, porpoises, or marine mammals,*
22 *except as dolphin safe in accordance with this sub-*
23 *section.”.*

1 (j) *Subsection (f) of the Dolphin Protection Consumer*
 2 *Information Act (16 U.S.C. 1385(f)) is amended to read*
 3 *as follows:*

4 “(f) *Regulations.*—

5 “(1) *IN GENERAL.*—*The Secretary, in consulta-*
 6 *tion with the Secretary of the Treasury, shall issue*
 7 *regulations to implement this section not later than*
 8 *6 months after the effective date of the International*
 9 *Dolphin Conservation Program Act.*

10 “(2) *TRACKING REGULATIONS.*—*Within 3*
 11 *months after the date of enactment of the Inter-*
 12 *national Dolphin Conservation Program Act, the Sec-*
 13 *retary, in consultation with the Secretary of the*
 14 *Treasury, shall issue regulations to establish a domes-*
 15 *tic tracking and verification program that provides*
 16 *for the effective tracking of tuna labeled under sub-*
 17 *section (d). In the development of these regulations,*
 18 *the Secretary shall establish appropriate procedures*
 19 *for ensuring the confidentiality of proprietary infor-*
 20 *mation the submission of which is voluntary or man-*
 21 *datory. The regulations shall include provisions that*
 22 *address each of the following items:*

23 “(1) *the use of weight calculation for purposes of*
 24 *tracking tuna caught, landed, processed, and exported;*

1 “(2) additional measures to enhance current ob-
 2 server coverage, including the establishment of criteria
 3 for training, and for improving monitoring and re-
 4 porting capabilities and procedures;

5 “(3) the designation of well location, procedures
 6 for sealing holds, procedures for monitoring and cer-
 7 tifying both above and below deck, or through equally
 8 effective methods, the tracking and verification of
 9 tuna labeled under subsection (d);

10 “(4) the reporting, receipt, and database storage
 11 of radio and facsimile transmittals from fishing ves-
 12 sels containing information related to the tracking
 13 and verification of tuna, and the definition of set;

14 “(5) the shore-based verification and tracking
 15 throughout the fishing, transshipment, and canning
 16 process by means of Inter-American Tropical Tuna
 17 Commission trip records or otherwise;

18 “(6) the use of periodic audits and spot checks
 19 for caught, landed, and processed tuna products la-
 20 beled in accordance with subsection (d); and

21 “(7) the provision of timely access to data re-
 22 quired under this subsection by the Secretary from
 23 harvesting nations to undertake the actions required
 24 in paragraph (6) of this subsection.

1 *The Secretary may make such adjustments as may be ap-*
 2 *propriate to the regulations promulgated under this sub-*
 3 *section to implement an international tracking and ver-*
 4 *ification program that meets or exceeds the minimum re-*
 5 *quirements established by the Secretary under this sub-*
 6 *section.”.*

7 **SEC. 5. AMENDMENTS TO TITLE III.**

8 (a) *The heading of title III is amended to read as fol-*
 9 *lows:*

10 “*TITLE III—INTERNATIONAL DOLPHIN*
 11 *CONSERVATION PROGRAM*”.

12 (b) *Section 301 (16 U.S.C. 1411) is amended—*

13 (1) *by striking paragraph (4) of subsection (a)*
 14 *and inserting the following:*

15 “(4) *Nations harvesting yellowfin tuna in the*
 16 *eastern tropical Pacific Ocean have demonstrated*
 17 *their willingness to participate in appropriate multi-*
 18 *lateral agreements to reduce dolphin mortality pro-*
 19 *gressively to a level approaching zero through the set-*
 20 *ting of annual limits, with the goal of eliminating,*
 21 *dolphin mortality in that fishery. Recognition of the*
 22 *International Dolphin Conservation Program will as-*
 23 *sure that the existing trend of reduced dolphin mor-*
 24 *tality continues; that individual stocks of dolphins*
 25 *are adequately protected; and that the goal of elimi-*

1 *nating all dolphin mortality continues to be a prior-*
 2 *ity.”; and*

3 *(2) by striking paragraphs (2) and (3) of sub-*
 4 *section (b) and inserting the following:*

5 *“(2) support the International Dolphin Con-*
 6 *servation Program and efforts within the Program to*
 7 *reduce, with the goal of eliminating, the mortality re-*
 8 *ferred to in paragraph (1);*

9 *“(3) ensure that the market of the United States*
 10 *does not act as an incentive to the harvest of tuna*
 11 *caught with driftnets or caught by purse seine vessels*
 12 *in the eastern tropical Pacific Ocean not operating in*
 13 *compliance with the International Dolphin Conserva-*
 14 *tion Program;”.*

15 *(c) Section 302 (16 U.S.C. 1412) is amended to read*
 16 *as follows:*

17 **“SEC. 302. AUTHORITY OF THE SECRETARY.**

18 *“(a) REGULATIONS.—*

19 *“(1) The Secretary shall issue regulations to im-*
 20 *plement the International Dolphin Conservation Pro-*
 21 *gram.*

22 *“(2)(A) Not later than 3 months after the effec-*
 23 *tive date of the International Dolphin Conservation*
 24 *Program Act, the Secretary shall issue regulations to*
 25 *authorize and govern the taking of marine mammals*

1 *in the eastern tropical Pacific Ocean, including any*
2 *species of marine mammal designated as depleted*
3 *under this Act but not listed as endangered or threat-*
4 *ened under the Endangered Species Act (16 U.S.C.*
5 *1531 et seq.), by vessels of the United States partici-*
6 *pating in the International Dolphin Conservation*
7 *Program.*

8 “(B) Regulations issued under this section
9 shall include provisions—

10 “(i) requiring observers on each vessel;

11 “(ii) requiring use of the backdown
12 procedure or other procedures equally or
13 more effective in avoiding mortality of ma-
14 rine mammals in fishing operations;

15 “(iii) prohibiting intentional sets on
16 stocks and schools in accordance with the
17 International Dolphin Conservation Pro-
18 gram;

19 “(iv) requiring the use of special
20 equipment, including dolphin safety panels
21 in nets, monitoring devices as identified by
22 the International Dolphin Conservation
23 Program to detect unsafe fishing conditions
24 that may cause high incidental dolphin
25 mortality before nets are deployed by a tuna

1 vessel, operable rafts, speedboats with tow-
 2 ing bridles, floodlights in operable condi-
 3 tion, and diving masks and snorkels;

4 “(v) ensuring that the backdown proce-
 5 dure during sets of purse seine net on ma-
 6 rine mammals is completed and rolling of
 7 the net to sack up has begun no later than
 8 30 minutes before sundown;

9 “(vi) banning the use of explosive de-
 10 vices in all purse seine operations;

11 “(vii) establishing per vessel maximum
 12 annual dolphin mortality limits, total dol-
 13 phin mortality limits and per-stock per-
 14 year mortality limits in accordance with
 15 the International Dolphin Conservation
 16 Program;

17 “(viii) preventing the making of inten-
 18 tional sets on dolphins after reaching either
 19 the vessel maximum annual dolphin mortal-
 20 ity limits, total dolphin mortality limits, or
 21 per-stock per-year mortality limits;

22 “(ix) preventing the fishing on dol-
 23 phins by a vessel without an assigned vessel
 24 dolphin mortality limit;

1 “(x) allowing for the authorization and
 2 conduct of experimental fishing operations,
 3 under such terms and conditions as the Sec-
 4 retary may prescribe, for the purpose of
 5 testing proposed improvements in fishing
 6 techniques and equipment that may reduce
 7 or eliminate dolphin mortality or do not re-
 8 quire the encirclement of dolphins in the
 9 course of commercial yellowfin tuna fishing;

10 “(xi) authorizing fishing with the area
 11 covered by the International Dolphin Con-
 12 servation Program by vessels of the United
 13 States without the use of special equipment
 14 or nets if the vessel takes an observer and
 15 does not intentionally deploy nets on, or en-
 16 circle, dolphins, under such terms and con-
 17 ditions as the Secretary may prescribe; and

18 “(xii) containing such other restric-
 19 tions and requirements as the Secretary de-
 20 termines are necessary to implement the
 21 International Dolphin Conservation Pro-
 22 gram with respect to vessels of the United
 23 States.

24 “(C) ADJUSTMENTS TO REQUIREMENTS.—

25 *The Secretary may make such adjustments as*

1 *may be appropriate to requirements of subpara-*
2 *graph (B) that pertain to fishing gear, vessel*
3 *equipment, and fishing practices to the extent the*
4 *adjustments are consistent with the International*
5 *Dolphin Conservation Program.*

6 “(b) *CONSULTATION.*—*In developing any regulation*
7 *under this section, the Secretary shall consult with the Sec-*
8 *retary of State, the Marine Mammal Commission and the*
9 *United States Commissioners to the Inter-American Tropi-*
10 *cal Tuna Commission appointed under section 3 of the*
11 *Tuna Conventions Act of 1950 (16 U.S.C. 952).*

12 “(c) *EMERGENCY REGULATIONS.*—

13 “(1) *If the Secretary determines, on the basis of*
14 *the best scientific information available (including re-*
15 *search conducted under subsection (d) and informa-*
16 *tion obtained under the International Dolphin Con-*
17 *servation Program) that the incidental mortality and*
18 *serious injury of marine mammals authorized under*
19 *this title is having, or is likely to have, a significant*
20 *adverse effect on a marine mammal stock or species,*
21 *the Secretary shall—*

22 “(A) *notify the Inter-American Tropical*
23 *Tuna Commission of his or her findings, along*
24 *with recommendations to the Commission as to*
25 *actions necessary to reduce incidental mortality*

1 *and serious injury and mitigate such adverse*
 2 *impact; and*

3 “(B) prescribe emergency regulations to re-
 4 *duce incidental mortality and serious injury and*
 5 *mitigate such adverse impact.*

6 “(2) Before taking action under subparagraph
 7 (A) or (B) of paragraph (1), the Secretary shall con-
 8 sult with the Secretary of State, the Marine Mammal
 9 Commission, and the United States Commissioners to
 10 the Inter-American Tropical Tuna Commission.

11 “(3) Emergency regulations prescribed under
 12 this subsection—

13 “(A) shall be published in the Federal Reg-
 14 ister, together with an explanation thereof;

15 “(B) shall remain in effect for the duration
 16 of the applicable fishing year; and

17 “(C) may be terminated by the Secretary at
 18 an earlier date by publication in the Federal
 19 Register of a notice of termination if the Sec-
 20 retary determines that the reasons for the emer-
 21 gency action no longer exist.

22 “(4) If the Secretary finds that the incidental
 23 mortality and serious injury of marine mammals in
 24 the yellowfin tuna fishery in the eastern tropical Pa-
 25 cific Ocean is continuing to have a significant ad-

1 *verse impact on a stock or species, the Secretary may*
 2 *extend the emergency regulations for such additional*
 3 *periods as may be necessary.*

4 *“(5) Within 120 days after the Secretary notifies*
 5 *the United States Commissioners to the Inter-Amer-*
 6 *ican Tropical Tuna Commission of the Secretary’s*
 7 *findings under paragraph (1)(A), the United States*
 8 *Commissioners shall call for a special meeting of the*
 9 *Commission to address the problem described in the*
 10 *findings. The Commissioners shall report the results*
 11 *of the special meeting in writing to the Secretary and*
 12 *to the Secretary of State. In their report, the Commis-*
 13 *sioners shall—*

14 *“(A) include a description of the actions*
 15 *taken by the harvesting nations or under the*
 16 *International Dolphin Conservation Program to*
 17 *reduce the incidental mortality and serious in-*
 18 *jury and measures to mitigate the adverse im-*
 19 *pect on the marine mammal species or stock;*

20 *“(B) indicate whether, in their judgment,*
 21 *the actions taken address the problem adequately;*
 22 *and*

23 *“(C) if they indicate that the actions taken*
 24 *do not address the problem adequately, include*

1 *recommendations of such additional action to be*
 2 *taken as may be necessary.*

3 “(d) *RESEARCH.*—

4 “(1) *IN GENERAL.*—*The Secretary shall, in co-*
 5 *operation with the nations participating in the Inter-*
 6 *national Dolphin Conservation Program and with the*
 7 *Inter-American Tropical Tuna Commission, under-*
 8 *take or support appropriate scientific research to fur-*
 9 *ther the goals of the International Dolphin Conserva-*
 10 *tion Program.*

11 “(2) *SPECIFIC AREAS OF RESEARCH.*—*Research*
 12 *carried out under paragraph (1)—*

13 “(A) *may include projects to devise cost-ef-*
 14 *fective fishing methods and gear so as to reduce,*
 15 *with the goal of eliminating, the incidental mor-*
 16 *tality and serious injury of marine mammals in*
 17 *connection with commercial purse seine fishing*
 18 *in the eastern tropical Pacific Ocean;*

19 “(B) *may include projects to develop cost-ef-*
 20 *fective methods of fishing for mature yellowfin*
 21 *tuna without setting nets on dolphins or other*
 22 *marine mammals;*

23 “(C) *may include projects to carry out stock*
 24 *assessments for those marine mammal species*
 25 *and marine mammal stocks taken in the purse*

1 *seine fishery for yellowfin tuna in the eastern*
 2 *tropical Pacific Ocean, including species or*
 3 *stocks not within waters under the jurisdiction of*
 4 *the United States;*

5 *“(D) shall include projects to study the ef-*
 6 *fect of chase and encirclement on the health and*
 7 *biology of dolphin and dolphin populations inci-*
 8 *dentally taken in the course of purse seine fish-*
 9 *ing for yellowfin tuna in the eastern tropical Pa-*
 10 *cific Ocean; and*

11 *“(E) may include projects to determine the*
 12 *extent to which the incidental take of nontarget*
 13 *species, including juvenile tuna, occurs in the*
 14 *course of purse seine fishing for yellowfin tuna*
 15 *in the eastern tropical Pacific Ocean, the geo-*
 16 *graphic location of the incidental take, and the*
 17 *impact of that incidental take on tuna stocks,*
 18 *and nontarget species.*

19 *“(3) AUTHORIZATION OF APPROPRIATIONS.—*
 20 *There are authorized to be appropriated to the Sec-*
 21 *retary \$8,000,000 to be used by the Secretary, acting*
 22 *through the National Marine Fisheries Service, to*
 23 *carry out the research described in paragraph (2)(D).*

24 *“(4) REPORT.—Within 5 years after the date of*
 25 *enactment of the International Dolphin Conservation*

1 *Program Act, the Secretary shall complete and submit*
 2 *a report containing the results of the research de-*
 3 *scribed in paragraph (2)(D), together with any rec-*
 4 *ommendations the Secretary may have to offer on the*
 5 *basis of the study, to the Committee on Commerce,*
 6 *Science, and Transportation of the Senate and the*
 7 *Committee on Commerce of the House of Representa-*
 8 *tives, and to the Inter-American Tropical Tuna Com-*
 9 *mission. The Secretary shall include a description of*
 10 *the annual activities and results of research carried*
 11 *out under this subsection in the report required under*
 12 *section 303.”.*

13 *(d) Section 303 (16 U.S.C. 1413) is hereby repealed.*

14 *(e) Section 304 (16 U.S.C. 1414) is amended to read*
 15 *as follows:*

16 **“SEC. 303. REPORTS BY THE SECRETARY.**

17 *“Notwithstanding section 103(f), the Secretary shall*
 18 *submit annual reports to the Congress which include—*

19 *“(1) results of research conducted pursuant to*
 20 *section 302;*

21 *“(2) a description of the status and trends of*
 22 *stocks of tuna;*

23 *“(3) a description of the efforts to assess, avoid,*
 24 *reduce, and minimize the bycatch of juvenile yellow-*
 25 *fin tuna and bycatch of nontarget species;*

1 “(4) a description of the activities of the Inter-
 2 national Dolphin Conservation Program and of the
 3 efforts of the United States in support of the Pro-
 4 gram’s goals and objectives, including the protection
 5 of dolphin populations in the eastern tropical Pacific
 6 Ocean, and an assessment of the effectiveness of the
 7 Program;

8 “(5) actions taken by the Secretary under section
 9 101(a)(2)(B) and section 101(d);

10 “(6) copies of any relevant resolutions and deci-
 11 sions of the Inter-American Tropical Tuna Commis-
 12 sion, and any regulations promulgated by the Sec-
 13 retary under this title; and

14 “(7) any other information deemed relevant by
 15 the Secretary.”.

16 (f) Section 305 (16 U.S.C. 1415) is hereby repealed.

17 (g) Section 306 (16 U.S.C. 1416) is amended to read
 18 as follows:

19 **“SEC. 304. PERMITS.**

20 “(a) *IN GENERAL.*—

21 “(1) Consistent with the regulations issued pur-
 22 suant to section 302, the Secretary shall issue a per-
 23 mit to a vessel of the United States authorizing par-
 24 ticipation in the International Dolphin Conservation
 25 Program and may require a permit for the person ac-

1 *tually in charge of and controlling the fishing oper-*
2 *ation of the vessel. The Secretary shall prescribe such*
3 *procedures as are necessary to carry out this sub-*
4 *section, including requiring the submission of—*

5 *“(A) the name and official number or other*
6 *identification of each fishing vessel for which a*
7 *permit is sought, together with the name and ad-*
8 *dress of the owner thereof; and*

9 *“(B) the tonnage, hold capacity, speed,*
10 *processing equipment, and type and quantity of*
11 *gear, including an inventory of special equip-*
12 *ment required under section 302, with respect to*
13 *each vessel.*

14 *“(2) The Secretary is authorized to charge a fee*
15 *for granting an authorization and issuing a permit*
16 *under this section. The level of fees charged under this*
17 *paragraph may not exceed the administrative cost in-*
18 *curring in granting an authorization and issuing a*
19 *permit. Fees collected under this paragraph shall be*
20 *available to the Under Secretary of Commerce for*
21 *Oceans and Atmosphere for expenses incurred in*
22 *granting authorizations and issuing permits under*
23 *this section.*

24 *“(3) After the effective date of the International*
25 *Dolphin Conservation Program Act, no vessel of the*

1 *United States shall operate in the yellowfin tuna fish-*
2 *ery in the eastern tropical Pacific Ocean without a*
3 *valid permit issued under this section.*

4 “(b) *PERMIT SANCTIONS.*—

5 “(1) *In any case in which—*

6 “(A) *a vessel for which a permit has been*
7 *issued under this section has been used in the*
8 *commission of an act prohibited under section*
9 *305;*

10 “(B) *the owner or operator of any such ves-*
11 *sel or any other person who has applied for or*
12 *been issued a permit under this section has acted*
13 *in violation of section 305; or*

14 “(C) *any civil penalty or criminal fine im-*
15 *posed on a vessel, owner or operator of a vessel,*
16 *or other person who has applied for or been is-*
17 *sued a permit under this section has not been*
18 *paid or is overdue,*

19 *the Secretary may—*

20 “(i) *revoke any permit with respect to*
21 *such vessel, with or without prejudice to the*
22 *issuance of subsequent permits;*

23 “(ii) *suspend such permit for a period*
24 *of time considered by the Secretary to be*
25 *appropriate;*

1 “(iii) deny such permit; or

2 “(iv) impose additional conditions or
3 restrictions on any permit issued to, or ap-
4 plied for by, any such vessel or person
5 under this section.

6 “(2) In imposing a sanction under this sub-
7 section, the Secretary shall take into account—

8 “(A) the nature, circumstances, extent, and
9 gravity of the prohibited acts for which the sanc-
10 tion is imposed; and

11 “(B) with respect to the violator, the degree
12 of culpability, any history of prior offenses, and
13 other such matters as justice requires.

14 “(3) Transfer of ownership of a vessel, by sale or
15 otherwise, shall not extinguish any permit sanction
16 that is in effect or is pending at the time of transfer
17 of ownership. Before executing the transfer of owner-
18 ship of a vessel, by sale or otherwise, the owner shall
19 disclose in writing to the prospective transferee the ex-
20 istence of any permit sanction that will be in effect
21 or pending with respect to the vessel at the time of
22 transfer.

23 “(4) In the case of any permit that is suspended
24 for the failure to pay a civil penalty or criminal fine,
25 the Secretary shall reinstate the permit upon pay-

1 *ment of the penalty or fine and interest thereon at the*
2 *prevailing rate.*

3 *“(5) No sanctions shall be imposed under this*
4 *section unless there has been a prior opportunity for*
5 *a hearing on the facts underlying the violation for*
6 *which the sanction is imposed, either in conjunction*
7 *with a civil penalty proceeding under this title or*
8 *otherwise.”.*

9 *(h) Section 307 (16 U.S.C. 1417) is hereby redesign-*
10 *ated as section 305, and amended—*

11 *(1) by striking paragraphs (1), (2), and (3) of*
12 *subsection (a) and inserting the following:*

13 *“(1) for any person to sell, purchase, offer for*
14 *sale, transport, or ship, in the United States, any*
15 *tuna or tuna product unless the tuna or tuna product*
16 *is either dolphin safe or has been harvested in compli-*
17 *ance with the International Dolphin Conservation*
18 *Program by a country that is a member of the Inter-*
19 *American Tropical Tuna Commission or has initi-*
20 *ated and within 6 months thereafter completed all*
21 *steps required of applicant nations in accordance*
22 *with Article V, paragraph 3 of the Convention estab-*
23 *lishing the Inter-American Tropical Tuna Commis-*
24 *sion, to become a member of that organization;*

1 (B) by striking paragraph (2) and inserting
2 in lieu thereof the following:

3 “(2) except as provided for in subsection 101(d),
4 for any person or vessel subject to the jurisdiction of
5 the United States intentionally to set a purse seine
6 net on or to encircle any marine mammal in the
7 course of tuna fishing operations in the eastern tropi-
8 cal Pacific Ocean except in accordance with this title
9 and regulations issued under pursuant to this title;
10 and

11 “(3) for any person to import any yellowfin
12 tuna or yellowfin tuna product or any other fish or
13 fish product in violation of a ban on importation im-
14 posed under section 101(a)(2);”;

15 (2) by inserting “(a)(5) or” before “(a)(6)” in
16 subsection (b)(2); and

17 (3) by striking subsection (d).

18 (i) Section 308 (16 U.S.C. 1418) is redesignated as
19 section 306, and amended by striking “303” and inserting
20 in lieu thereof “302(d)”.

21 (j) CLERICAL AMENDMENTS.—The table of contents in
22 the first section of the Marine Mammal Protection Act of
23 1972 is amended by striking the items relating to title III
24 and inserting in lieu thereof the following:

“TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

“Sec. 301. Findings and policy.

“Sec. 302. Authority of the Secretary.

“Sec. 303. Reports by the Secretary.

“Sec. 304. Permits.

1 **SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT.**

2 (a) *Section 3(c) of the Tuna Conventions Act (16*
3 *U.S.C. 952(c)) is amended to read as follows:*

4 *“(c) at least one shall be either the Administrator, or*
5 *an appropriate officer, of the National Marine Fisheries*
6 *Service; and”.*

7 (b) *Section 4 of the Tuna Conventions Act (16 U.S.C.*
8 *953) is amended to read as follows:*

9 **“SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC**
10 **ADVISORY SUBCOMMITTEE.**

11 “(a) *APPOINTMENTS; PUBLIC PARTICIPATION; COM-*
12 *PENSATION.—The Secretary, in consultation with the Unit-*
13 *ed States Commissioners, shall—*

14 “(1) *appoint a General Advisory Committee*
15 *which shall be composed of not less than 5 nor more*
16 *than 15 persons with balanced representation from*
17 *the various groups participating in the fisheries in-*
18 *cluded under the conventions, and from nongovern-*
19 *mental conservation organizations;*

20 “(2) *appoint a Scientific Advisory Subcommittee*
21 *which shall be composed of not less than 5 nor more*
22 *than 15 qualified scientists with balanced representa-*
23 *tion from the public and private sectors, including*
24 *nongovernmental conservation organizations;*

1 “(3) *establish procedures to provide for appro-*
 2 *priate public participation and public meetings and*
 3 *to provide for the confidentiality of confidential busi-*
 4 *ness data; and*

5 “(4) *fix the terms of office of the members of the*
 6 *General Advisory Committee and Scientific Advisory*
 7 *Subcommittee, who shall receive no compensation for*
 8 *their services as such members.*

9 “(b) *FUNCTIONS.—*

10 “(1) *GENERAL ADVISORY COMMITTEE.—The Gen-*
 11 *eral Advisory Committee shall be invited to have rep-*
 12 *resentatives attend all nonexecutive meetings of the*
 13 *United States sections and shall be given full oppor-*
 14 *tunity to examine and to be heard on all proposed*
 15 *programs of investigations, reports, recommendations,*
 16 *and regulations of the Commission. The General Ad-*
 17 *visory Committee may attend all meetings of the*
 18 *international commissions to which they are invited*
 19 *by such commissions.*

20 “(2) *SCIENTIFIC ADVISORY SUBCOMMITTEE.—*

21 “(A) *ADVICE.—The Scientific Advisory*
 22 *Subcommittee shall advise the General Advisory*
 23 *Committee and the Commissioners on matters*
 24 *including—*

25 “(i) *the conservation of ecosystems;*

1 “(ii) *the sustainable uses of living ma-*
 2 *rine resources related to the tuna fishery in*
 3 *the eastern Pacific Ocean; and*

4 “(iii) *the long-term conservation and*
 5 *management of stocks of living marine re-*
 6 *sources in the eastern tropical Pacific*
 7 *Ocean.*

8 “(B) *OTHER FUNCTIONS AND ASSIST-*
 9 *ANCE.—The Scientific Advisory Subcommittee*
 10 *shall, as requested by the General Advisory Com-*
 11 *mittee, the United States Commissioners, or the*
 12 *Secretary, perform functions and provide assist-*
 13 *ance required by formal agreements entered into*
 14 *by the United States for this fishery, including*
 15 *the International Dolphin Conservation Pro-*
 16 *gram. These functions may include—*

17 “(i) *the review of data from the Pro-*
 18 *gram, including data received from the*
 19 *Inter-American Tropical Tuna Commission;*

20 “(ii) *recommendations on research*
 21 *needs, including ecosystems, fishing prac-*
 22 *tices, and gear technology research, includ-*
 23 *ing the development and use of selective, en-*
 24 *vironmentally safe and cost-effective fishing*

1 *gear, and on the coordination and facilita-*
 2 *tion of such research;*

3 “(iii) *recommendations concerning sci-*
 4 *entific reviews and assessments required*
 5 *under the Program and engaging, as appro-*
 6 *priate, in such reviews and assessments;*

7 “(iv) *consulting with other experts as*
 8 *needed; and*

9 “(v) *recommending measures to assure*
 10 *the regular and timely full exchange of data*
 11 *among the parties to the Program and each*
 12 *nation’s National Scientific Advisory Com-*
 13 *mittee (or its equivalent).*

14 “(3) *ATTENDANCE AT MEETINGS.—The Scientific*
 15 *Advisory Subcommittee shall be invited to have rep-*
 16 *resentatives attend all nonexecutive meetings of the*
 17 *United States sections and the General Advisory Sub-*
 18 *committee and shall be given full opportunity to ex-*
 19 *amine and to be heard on all proposed programs of*
 20 *scientific investigation, scientific reports, and sci-*
 21 *entific recommendations of the commission. Rep-*
 22 *resentatives of the Scientific Advisory Subcommittee*
 23 *may attend meetings of the Inter-American Tropical*
 24 *Tuna Commission in accordance with the rules of*
 25 *such Commission.”.*

1 (c) *BYCATCH REDUCTION.*—*The Tuna Conventions*
 2 *Act (16 U.S.C. 951 et seq.) is amended by adding at the*
 3 *end thereof the following:*

4 **“SEC. 15. REDUCTION OF BYCATCH IN THE EASTERN TROPICAL**
 5 **PACIFIC OCEAN.**

6 *“The Secretary of State, acting through the United*
 7 *States Commissioners, shall take the necessary steps to es-*
 8 *tablish standards and measures for a bycatch reduction pro-*
 9 *gram for vessels fishing for yellowfin tuna in the eastern*
 10 *tropical Pacific Ocean. The bycatch reduction program*
 11 *shall include measures—*

12 *“(1) to require, to the maximum extent prac-*
 13 *ticable, that sea turtles and other threatened species*
 14 *and endangered species are released alive;*

15 *“(2) to reduce, to the maximum extent prac-*
 16 *ticable, the harvest of nontarget species;*

17 *“(3) to reduce, to the maximum extent prac-*
 18 *ticable, the mortality of nontarget species; and*

19 *“(4) to reduce, to the maximum extent prac-*
 20 *ticable, the mortality of juveniles of the target spe-*
 21 *cies.”.*

22 **SEC. 7. EFFECTIVE DATES.**

23 (a) *AMENDMENTS TO TAKE EFFECT WHEN IDCP IN*
 24 *EFFECT.*—*Sections 3 through 6 of this Act shall become ef-*
 25 *fective upon certification by the Secretary of State to Con-*

1 *gress that a binding resolution of the Inter-American Tropi-*
2 *cal Tuna Commission or other legally binding instrument*
3 *establishing the International Dolphin Conservation Pro-*
4 *gram has been adopted and is in effect.*

5 (b) *SPECIAL EFFECTIVE DATE.*—*Notwithstanding*
6 *subsection (a), subsection (f)(2) of the Dolphin Protection*
7 *Consumer Information Act (16 U.S.C. 1385(f)(2)), as added*
8 *by section 4(j) of this Act takes effect on the date of enact-*
9 *ment of this Act.*